

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF A REGULAR MEETING HELD
JANUARY 13, 2004

- (6) Classic Development Section 10.0704(A)(3)
Permanent Parcel No. 08-24-401-004
- (7) Dominic Battaglia Section 10.0704(A)(1)(d)
Permanent Parcel No. 08-36-303-021
08-36-303-022
08-36-303-019
5. VARIANCE FROM THE PROVISION OF THE ZONING ORDINANCE;
Permission to vary section:
Section 10.0311(E)(F)(5)-Request allowance of a 6.84' distance between the house and pool instead of 10'.
Located west of Romeo Plank north of 25 Mile Road; Section 6; Tammy Dodd and Geoff Loucks, Petitioner. Permanent Parcel No. 08-06-479-003.

Chairman DeBUCK read the findings and recommendations of January 5, 2004. They are as follows:

The petitioner is requesting allowance to provide a setback, of a pool, a distance of 6.84' from a residence.

The matter was considered by the Board at its meetings of September 9, and November 10 of 2003 and tabled at the request of the petitioner. The petitioners did not attend the meetings and the matter was tabled.

In considering such matters the Zoning Board of Appeals has taken into account "hold harmless" agreements signed by petitioners relieving the Township of any responsibilities in the event of any catastrophes that may occur as a result of such variance.

The property in question is a lot that otherwise meets the requirements of the Macomb Township Zoning Ordinance.

It is noted that the site plan submitted by the petitioners indicates that the pool deck will encroach into the 12' easement along the rear property line.

RECOMMENDATION:

It is recommended that the variance requests be approved with the following condition:

1. That the petitioner will provide "hold harmless" agreements absolving the Township of any responsibilities of catastrophes that may occur as a result of the variances granted.

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This recommendation is made with the understanding that the petitioner will apply for and receive an encroachment variance from the Water/Sewer Department to locate the pool deck in the 12' easement running along the rear property line and that the "hold harmless" agreement be approved by the Township Attorney.

Public Portion: None.

MOTION by GALLAGHER seconded by FLORENCE to table the variance request of Section 10.0311(E)(F)(5)-Request allowance of a 6.84 foot distance between the house and pool instead of 10 feet; Located west of Romeo Plank Road, north of 25 Mile Road; Section 6; Tammy Dodd and Geoff Loucks, Petitioner. Permanent Parcel No. 08-06-479-003. The variance was tabled until such time as the petitioner indicates in writing that they will be in attendance at a meeting to answer questions.

MOTION carried.

6. VARIANCE FROM THE PROVISION OF THE ZONING ORDINANCE;
Permission to vary section:
Section 10.0704(A)(3)-Request to allow a parcel to exceed the 3 to 1 ratio. Located west of Fairchild Road, 1/4 mile north of 22 Mile Road; Classic Development, Petitioner. Permanent Parcel No. 08-24-401-004 (now proposed as Legacy Farms Sub.)

Chairman DeBUCK read the findings and recommendations of January 5, 2004. They are as follows:

The petitioner is requesting allowance to develop proposed lots 299, 300 and 301 in the proposed Legacy Farms Subdivision with depths exceeding the 3 to 1 ration required by the Zoning Ordinance.

The reason for the request is because the Bowman Ditch cuts the corner of the parcel to be platted causing the street to veer to the east so that lots may back to the drain. The remaining parcel to the west of the ditch must be attached to the fronts of the lots making them exceed the 3 to 1 ratio.

The petitioner does not have any other access to the portion of the property to the west of the ditch therefore necessitating the need to combine it with the lots in question.

The property is zoned R-1.

RECOMMENDATION:

It is recommended that the variance request be approved for the following reason:

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1. The variance will allow the plat to be created in accordance with all other standards of the zoning ordinance.
2. The petitioner did not cause the location of the ditch. The best use of the property west of the ditch is to combine it with the lots in question so that the owners of the new lots will be responsible for their maintenance.

Jerome R. Schmeiser, Planning Consultant, reviewed the proposed plat and showed the location of the drain in connection to the affected lots within the plat.

Chris Cousino, petitioner, was in attendance.

Secretary DeBUCK asked if there would be a culvert placed within the drain to create a crossing that would help maintain the rear portion of those lots.

Chris Cousino stated that Drain Commission is asking for an easement which will encumber most of the affected property. Furthermore, there are wetlands located within the affected area and indicated that they plan to leave the area in its natural state.

Public Portion: None.

MOTION by FLORENCE seconded by POPOVSKI to close the public portion.

MOTION carried.

The following resolution was offered by GALLAGHER and seconded by SLOSSEN:

Whereas, it has been satisfactorily presented that special conditions prevail that would cause an unnecessary hardship if the request would be denied and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance No. 10 under the findings and facts herein set forth;

Now, therefore, be it resolved that pursuant to the action of the Board that Section 10.0704(A)(3)(D)-Request to exceed the 3 to 1 depth to width ratio; Located on the west side of Fairchild Road, approximately ¼ mile north of 22 Mile Road; (Proposed Legacy Farms Subdivision); Section 24; Classic Development, Petitioner. Permanent Parcel No. 08-24-401-004. The variance was granted with the following conditions:

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1. **The variance will allow the plat to be created in accordance with all other standards of the zoning ordinance.**
2. **The petitioner did not cause the location of the ditch. The best use of the property west of the ditch is to combine it with the lots in question so that the owners of the new lots will be responsible for their maintenance.**

MOTION carried.

7. VARIANCE FROM THE PROVISION OF THE ZONING ORDINANCE;
Permission to vary section:
Section 10.0704(A)(1)(d)-Request to allow the creation of a parcel under 10 acres to exceed the 3 to 1 ratio.
Located on the east side of North Avenue 1/4 mile north of Hall Road; Section 36; Dominic Battaglia, Petitioner. Permanent Parcel No. 08-36-303-021, 08-36-303-022 and 08-36-303-019

Chairman DeBUCK read the findings and recommendations of January 13, 2004. They are as follows:

The petitioner is requesting a variance to allow a parcel under 10 acres to exceed the 3 to 1 ratio as required by the Zoning Ordinance.

Earlier this year the Board considered development of the property with a cul-de-sac extending from the east. However the length of the cul-de-sac exceeded the ordinance length and no decision was made pending the petitioner's acquisition of the North Avenue frontage to provide for an access to North Avenue. Since that time the access to North Avenue has been secured by the petitioner.

The parcels in question measure 318.22' x 1253.50' with the 318.22' of frontage on the east side of North Avenue and an access from the east via a stub street (Merlene) from the recently platted Urban Meadows Subdivision. All lots within the Urban Meadows Subdivision are zoned R-1 (Residential, One-Family Urban) and are planned for single family residences with lot widths ranging from 70'-100' for interior lots to 90'-125' for corner lots.

In the area of the property in question North Avenue contains homes and an elementary school located on it.

North Avenue and the stub street (Merlene) are streets with 60' and 150' of right-of-way respectfully as provided.

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As noted, the petitioner indicates that the entire North Avenue frontage has been purchased allowing the petitioner to develop the extension of Merlene through to North Avenue. Also the petitioner indicates that all current accesses to North Avenue, except for the new street, will be eliminated by re-routing drives to the new street or by the creation of new lots. The northerly two houses will be eliminated. The middle house has been torn down and the northerly most house will be razed.

RECOMMENDATION:

It is recommended that the variance request to allow the parcel to exceed the 3 to 1 ratio be approved for the following reasons;

1. The petitioner has designed a plat that will tie into an existing street to the east.
2. Access will be provided to North Avenue.

This recommendation is made with the understanding that the existing drive from the southerly most house be re-routed to the proposed new street.

Jerome R. Schmeiser, Planning Consultant, reviewed the proposed plat and noted that the development would eliminate several driveways with the elimination of the houses that faced North Avenue and that there would only be one access out to North Avenue.

Bill Thompson, representative, stated the development of the proposed plat will tie into Urban Meadows which will help alleviate traffic congestion on the existing narrow streets by allowing the traffic to enter/exit out to North Avenue.

Public Portion:

Jim Ayres, 23461 Shepherd Lane, asked how many lots would be created and if anyone from the Township would petition the Macomb County Road Commission for a traffic light at North Avenue and Merlene.

Bill Thompson stated there would be 30 lots within the proposed plat.

Jerome R. Schmeiser, Planning Consultant, stated that traffic light requests are handled through the Township Board of Trustees and are separate from the development of the plat.

Jim Ayres also asked about how to keep the construction traffic from traveling on the residential streets.

Member GALLAGHER stated that all the streets are public and that everyone is allowed to travel on them. The Township can request that construction entrances be placed during the

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development of the subdivision to help with the traffic congestion but once again it can't be enforced.

Secretary FLORENCE asked if the lots on the south side of the proposed plat could be reduced to Merlene wider than a local 60 foot street.

MOTION by GALLAGHER seconded by SLOSSEN to close the public portion.

MOTION carried.

The following resolution was offered by GALLAGHER and seconded by FLORENCE:

Whereas, it has been satisfactorily presented that special conditions prevail that would cause an unnecessary hardship if the request would be denied and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance No. 10 under the findings and facts herein set forth;

Now, therefore, be it resolved that pursuant to the action of the Board that Section 10.0704(A)(1)(D)-Request to exceed the 3 to 1 depth to width ratio; Located on the east side of North Avenue, ¼ mile north of Hall Road; Section 36; Dominic Battaglia, Petitioner. Permanent Parcel No. 08-36-303-021, 08-36-303-022 and 08-36-303-019. The variance was granted conditioned upon the petitioner designing a plat that will tie into an existing street to the east and that access will be provided to North Avenue.

MOTION carried.

8. OLD BUSINESS

None.

9. NEW BUSINESS

MOTION by GALLAGHER seconded by SLOSSEN to reappoint the existing officers to the Zoning Board of Appeals for 2004 as follows:

Marvin DeBuck – Chairman, Brian Florence – Secretary, Edward Gallagher – Member, Tony Popovski – Member and Dawn Slossen – Member.

MOTION carried.

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10. PLANNING CONSULTANTS COMMENTS

Jerome R. Schmeiser, Planning Consultant, stated there was a special meeting scheduled for January 2, 2004.

ADJOURNMENT

MOTION by FLORENCE seconded by POPOVSKI to adjourn the meeting at 7:40 P.M.

MOTION carried.

Respectfully submitted,

Marvin DeBuck, Chairman

Brian Florence, Secretary

Beckie Kavanagh, Recording Secretary

BK